

109TH CONGRESS
2D SESSION

S. 3512

To amend the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for State judicial debts that are past-due.

IN THE SENATE OF THE UNITED STATES

JUNE 14, 2006

Mr. SMITH (for himself and Mr. SCHUMER) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for State judicial debts that are past-due.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. OFFSET OF STATE JUDICIAL DEBTS AGAINST**
4 **INCOME TAX REFUND.**

5 (a) IN GENERAL.—Section 6402 of the Internal Rev-
6 enue Code of 1986 (relating to authority to make credits
7 or refunds) is amended by redesignating subsections (f)
8 through (k) as subsections (g) through (l), respectively,
9 and by inserting after subsection (e) the following:

1 “(f) COLLECTION OF PAST-DUE, LEGALLY EN-
2 FORCEABLE STATE JUDICIAL DEBTS.—

3 “(1) IN GENERAL.—Upon receiving notice from
4 any State judicial branch or State agency designated
5 by the chief justice of the State’s highest court that
6 a named person owes a past-due, legally enforceable
7 State judicial debt to or in such State, the Secretary
8 shall, under such conditions as may be prescribed by
9 the Secretary—

10 “(A) reduce the amount of any overpay-
11 ment payable to such person by the amount of
12 such State judicial debt;

13 “(B) pay the amount by which such over-
14 payment is reduced under subparagraph (A) to
15 such State judicial branch or State agency and
16 notify such State judicial branch or State agen-
17 cy of such person’s name, taxpayer identifica-
18 tion number, address, and the amount collected;
19 and

20 “(C) notify the person making such over-
21 payment that the overpayment has been re-
22 duced by an amount necessary to satisfy a past-
23 due, legally enforceable State judicial debt.

24 If an offset is made pursuant to a joint return, the
25 notice under subparagraph (B) shall include the

names, taxpayer identification numbers, and addresses of each person filing such return.

“(2) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET.—Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year is an address within the State of the State judicial branch or State agency seeking the offset.

“(3) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

“(A) after such overpayment is reduced pursuant to—

“(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

“(ii) subsection (c) with respect to past-due support;

“(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

1 “(iv) subsection (e) with respect to
 2 any past-due, legally enforceable State in-
 3 come tax obligations; and

4 “(B) before such overpayment is credited
 5 to the future liability for any Federal internal
 6 revenue tax of such person pursuant to sub-
 7 section (b).

8 If the Secretary receives notice from 1 or more State
 9 agencies, or from 1 or more State agencies and the
 10 State judicial branch, of more than 1 debt subject
 11 to paragraph (1) that is owed by such person to
 12 such State agency or State judicial branch, any over-
 13 payment by such person shall be applied against
 14 such debts in the order in which such debts accrued.

15 “(4) NOTICE; CONSIDERATION OF EVIDENCE.—
 16 Rules similar to the rules of subsection (e)(4) shall
 17 apply with respect to debts under this subsection.

18 “(5) PAST-DUE, LEGALLY ENFORCEABLE STATE
 19 JUDICIAL DEBT.—

20 “(A) IN GENERAL.—For purposes of this
 21 subsection, the term ‘past-due, legally enforce-
 22 able State judicial debt’ means a debt—

23 “(i) which resulted from a judgment
 24 or sentence rendered by any court or tri-
 25 bunal of competent jurisdiction which—

1 “(I) handles criminal or traffic
2 cases in the State; and

3 “(II) has determined an amount
4 of State judicial debt to be due; and

5 “(ii) which resulted from a State judi-
6 cial debt which has been assessed and is
7 past-due but not collected.

8 “(B) STATE JUDICIAL DEBT.—For pur-
9 poses of this paragraph, the term ‘State judicial
10 debt’ includes court costs, fees, fines, assess-
11 ments, restitution to victims of crime, and other
12 monies resulting from a judgment or sentence
13 rendered by any court or tribunal of competent
14 jurisdiction handling criminal or traffic cases in
15 the State.

16 “(6) REGULATIONS.—The Secretary shall issue
17 regulations prescribing the time and manner in
18 which State judicial branches and State agencies
19 must submit notices of past-due, legally enforceable
20 State judicial debts and the necessary information
21 that must be contained in or accompany such no-
22 tices. The regulations shall specify the types of State
23 judicial monies and the minimum amount of debt to
24 which the reduction procedure established by para-
25 graph (1) may be applied. The regulations may re-

1 quire State judicial branches and State agencies to
 2 pay a fee to reimburse the Secretary for the cost of
 3 applying such procedure. Any fee paid to the Sec-
 4 retary pursuant to the preceding sentence shall be
 5 used to reimburse appropriations which bore all or
 6 part of the cost of applying such procedure.

7 “(7) ERRONEOUS PAYMENT TO STATE.—Any
 8 State judicial branch or State agency receiving no-
 9 tice from the Secretary that an erroneous payment
 10 has been made to such State judicial branch or
 11 State agency under paragraph (1) shall pay prompt-
 12 ly to the Secretary, in accordance with such regula-
 13 tions as the Secretary may prescribe, an amount
 14 equal to the amount of such erroneous payment
 15 (without regard to whether any other amounts pay-
 16 able to such State judicial branch or State agency
 17 under such paragraph have been paid to such State
 18 judicial branch or State agency).”.

19 (b) DISCLOSURE OF RETURN INFORMATION.—Sec-
 20 tion 6103(l)(10) of the Internal Revenue Code of 1986
 21 (relating to disclosure of certain information to agencies
 22 requesting a reduction under subsection (c), (d), or (e) of
 23 section 6402) is amended by striking “or (e)” each place
 24 it appears in the text and heading and inserting “(e), or
 25 (f)”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 6402(a) of the Internal Revenue
3 Code of 1986 is amended by striking “and (e)” and
4 inserting “(e), and (f)”.

5 (2) Paragraph (2) of section 6402(d) of such
6 Code is amended by striking “subsection (e)” and
7 inserting “subsections (e) and (f)”.

8 (3) Paragraph (3)(B) of section 6402(e) of
9 such Code is amended to read as follows:

10 “(B) before such overpayment is—

11 “(i) reduced pursuant to subsection
12 (f) with respect to past-due, legally en-
13 forceable State judicial debts, and

14 “(ii) credited to the future liability for
15 any Federal internal revenue tax of such
16 person pursuant to subsection (b).”.

17 (4) Section 6402(g) of such Code, as so redesign-
18 nated, is amended by striking “or (e)” and inserting
19 “(e), or (f)”.

20 (5) Section 6402(i) of such Code, as so redesign-
21 nated, is amended by striking “or (e)” and inserting
22 “, (e), or (f)”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this Act shall apply to refunds payable for taxable years
3 beginning after December 31, 2006.

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